

PR#9833

PHILLIPS, SHANON

4/15/2009

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,
Plaintiff,

vs.

CASE NO. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,
Defendants.

DEPOSITION OF SHANON PHILLIPS
TAKEN ON BEHALF OF THE DEFENDANTS
ON APRIL 15, 2009, BEGINNING AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

APPEARANCES:

On behalf of the PLAINTIFF:
Mr. J. Trevor Hammons
Mr. Dan Lennington
OKLAHOMA ATTORNEY GENERAL'S OFFICE
313 Northeast 21st
Oklahoma City, Oklahoma 73105
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On behalf of the DEFENDANT-CARGILL, INC. AND CARGILL
TURKEY PRODUCTION:
Ms. Theresa Hill
RHODES, HIERONYMUS, JONES, TUCKER & GABLE
100 West 5th Street, Suite 400
Tulsa, Oklahoma 74103
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Also Present: Ms. Janet Stewart
Mr. Jim Leach
REPORTED BY: Laura L. Robertson, CSR, RPR

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(APPEARANCES CONTINUED)

On behalf of the DEFENDANT-PETERSON FARMS, INC.:

Mr. Bruce Freeman

CONNER & WINTERS

4000 One Williams Center

Tulsa, Oklahoma 74172

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On behalf of the DEFENDANT-GEORGE'S, INC. AND GEORGE'S
FARMS, INC.:

Ms. Jennifer Lloyd

THE BASSETT LAW FIRM

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1 MR. LENNINGTON: Dan Lennington, State of
2 Oklahoma.

3 MR. HAMMONS: Trevor Hammons for the State.

4 MS. STEWART: Janet Stewart, Oklahoma
5 Conservation Commission.

6 MS. LLOYD: Jennifer Lloyd, George's Inc.

7 MS. HILL: Theresa Hill on behalf of
8 Cargill, Inc. and Cargill Turkey Production, LLC.

9 MR. FREEMAN: Bruce Freeman, Simmons.

10 MR. LEACH: Jim Leach, Oklahoma Conservation
11 Commission.

12 WHEREUPON,

13 SHANON PHILLIPS,
14 after having been first duly sworn, deposes and says
15 in reply to the questions propounded as follows,
16 to-wit:

17 DIRECT EXAMINATION

18 BY MS. HILL:

19 Q. Ms. Phillips again for the record, my name
20 is Theresa Hill, and I'm here to take your deposition
21 pursuant to this 30(b)(6) notice I have marked as
22 Exhibit No. 1.

23 Can you take a look at Exhibit No. 1 and
24 tell me if you have seen this document before?

25 (Defendant's Exhibit 1 marked for

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1 in the Illinois River Watershed.

2 Q. All right. Please take a look at topic
3 number 3 and advise me whether you are prepared to
4 testify on behalf of Oklahoma Conservation Commission
5 about topic 3 of this notice?

6 A. I'm prepared to discuss costs and response
7 costs incurred by the Oklahoma Conservation Commission
8 in response to pollutants that have affected water
9 quality in the Illinois River Watershed.

10 Q. Take a look at topic 4 and please advise
11 whether you are prepared to testify as to topic 4 on
12 behalf of the Oklahoma Conservation Commission?

13 A. We do not have the ability to relate costs
14 specifically to each of the defendants or their
15 contract growers, our costs are not tracked that way.

16 Q. So are you prepared to testify as to topic
17 4?

18 A. Yes.

19 Q. We will explore in more detail as we go
20 through the deposition.

21 You advised that you do not have the ability
22 to relate costs to a specific defendant. Do you
23 relate costs to the release of any pollutant or
24 hazardous substance released from defendants
25 generally, not specifically?

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1 tracking our costs, we pulled records of those costs
2 and assembled and reviewed those costs. Narrowed
3 those down to the costs that we could specifically
4 associate with state costs in the Illinois River
5 Watershed that could address poultry waste.

6 Q. So do I understand that you sought out to
7 prepare a list of Oklahoma Conservation Commission
8 projects that initially related to Illinois River
9 Watershed?

10 A. Yes.

11 Q. And at some point was there a narrowing of
12 that list?

13 A. Yes.

14 Q. What were the parameters you used to narrow
15 that list?

16 A. We narrowed that list based on whether or
17 not we could, had a record of how much state money was
18 spent in the watershed, whether we could easily
19 delineate between state and federal money.

20 Based on whether or not the project
21 addressed anything related to do with animal waste,
22 poultry waste, specifically, and let me make sure
23 there wasn't something else. Let me check my notes.
24 That defines how we narrowed the list.

25 Q. When did you begin this process of preparing

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1 Q. So in coming up with the amount of funds to
2 put on your chart at Bates stamp 1 and 2, you did not
3 go through and mark out any of these line items that
4 were already on document 10 and 11; is that correct?

5 A. That's correct.

6 Q. Okay. And again, this appears to be a
7 program that relates to multiple types of non-point
8 pollution?

9 A. That's true.

10 Q. For example, Barney Nubbey, there is a line
11 item, "Dairy lagoon clean out and liner," and funds he
12 expended for that dairy lagoon clean out and liner are
13 included on this list?

14 A. Yes.

15 Q. And those funds are included in the \$41,000
16 approximately on page 1?

17 A. Yes.

18 Q. All right. Do you want to keep going or do
19 you want to take a short break?

20 A. I'm fine.

21 MR. LENNINGTON: If you're fine, then we
22 keep going.

23 Q. (BY MS. HILL) All right. Let's go on to --
24 FFY 1997 319 H, task number 89. It looks like Bates
25 stamp documents 12 and 13 relate to task number 89; is

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1 that correct?

2 A. Yes.

3 Q. And what are the state funds that you
4 determined were spent on task number 89?

5 A. \$30,121.73.

6 Q. And how is it that you determined that
7 amount?

8 A. That was determined based on information
9 provided to us by the Oklahoma Scenic Rivers
10 Commission on the state dollars that they contributed
11 to completion of the project.

12 Q. These funds go to purchase Porta-Potties,
13 for instance?

14 A. And trash bags and signage.

15 Q. Was there any water quality monitoring done
16 in association with task number 89?

17 A. No, there was no water quality monitoring
18 associated -- directly associated with this project.

19 Q. Any other evaluation study or assessment of
20 water quality in the Illinois River Watershed that was
21 done in association with task number 89?

22 A. There would have been education programs
23 that went along with this task that reported on
24 overall evaluation of water quality assessment, but
25 the actual assessment was not done under 89.

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1 Q. All right. And who were those education
2 programs directed at?

3 A. The -- there were again youth education
4 programs, adult education programs, river user
5 education programs, legislative field days and civic
6 and community presentations.

7 Q. And the reason why this task made the list
8 was it related to programs in the watershed generally
9 that dealt with water quality and general sources of
10 non-point pollution; is that correct?

11 A. Yes.

12 Q. Any other reason why this task made the
13 list?

14 A. This project was an effort to encourage the
15 conservation districts in the watershed who primarily
16 work with agriculture community to interface their
17 activities more effectively with the Scenic Rivers
18 Commission, to encourage them to begin to offer same
19 types of programs to different communities in the
20 watershed.

21 And so there was a lot of -- there would
22 have been education addressed at groups who might not
23 have had that type of an education program before.

24 Q. Okay. Where are those tasks and activities
25 referred to on pages 12 and 13?

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1 A. It is not described. That water quality
2 monitoring would have been covered with federal
3 dollars.

4 Q. Was there any other evaluation or assessment
5 completed relating to water quality in the Illinois
6 River Watershed as part of task number 556?

7 A. Yes.

8 Q. And was that covered by federal dollars
9 also?

10 A. Yes.

11 Q. And what was the nature of that evaluation
12 and assessment, generally?

13 A. That evaluation and assessment would have
14 considered the, how stream bank civilization
15 contributed to problems in the Illinois River
16 Watershed, and factors leading up to stream bank
17 destabilization.

18 Q. Let's move on to the next line item on page
19 number 1 is FFY 1998 104(b)(3) W, task number 559. I
20 believe that documents 20 through 23 relate to the
21 costs that the state is claiming in relation to task
22 number 559; is that correct?

23 A. Yes.

24 Q. And give me a description of what task 559
25 is, please.

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1 **A.** 559 involved the development of outdoor
2 classrooms, a number of them across the state, one of
3 which was located in Cherokee County. And it also
4 involved training of educators in the area to utilize
5 programs such as the Wonders of Wetland, Project WET,
6 which is water education for teachers to educate
7 students and local citizens about water quality in the
8 area.

9 **Q.** Were there other education programs
10 associated with task number 559, other than the
11 Wonders of Wetlands?

12 **A.** I stated the project WET, which is Water
13 Education for Teachers.

14 **Q.** And the WOW program is for teachers also; is
15 that correct?

16 **A.** Yes. These are programs that train -- that
17 provide -- train and provide curriculum to teachers to
18 teach about water quality issues.

19 **Q.** We discussed WOW previously. With respect
20 to WET, is the education relating to non-point source
21 pollution generally?

22 **A.** Yes.

23 **Q.** And are multiple types of sources addressed
24 in that education?

25 **A.** Yes.